

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS
EASTERN DIVISION

IN RE ARBITRATION MATTER OF: }
RDSB ENTERPRISES, LLC and DS }
HOLDINGS, INC. }
Claimants }
v. } MISC CASE NO: 19-91077
NEBRASKA VENDING, LLC, JOHN J. }
MOUSIS, Individually, and MICHAEL }
J. PALERMO, Individually }
Respondents }

American Arbitration Association }
Case No. 01-17-0002-0952 }

MOTION FOR SHORT ORDER OF NOTICE

NOW COME the Claimants in the American Arbitration Association Case of RDSB Enterprises, LLC, et al v. Nebraska Vending, LLC, et al (AAA Case No. 01-17-0002-0952) (hereinafter the "Arbitration"), and move this Court for a Short Order of Notice in relation to the Claimants' Motion For Issuance of Letters Rogatory filed this day.

As reasons therefor, the Claimants state:

1. On February 12 & 13, 2019, the Arbitrator, Michael Tracy, convened the final hearing in the Arbitration at which all witness testified except for the witness who is the subject of the arbitral subpoena for which the Claimants are seeking Letters Rogatory.

2. That witness - a witness for the Claimants - was expected to testify on the first day of hearing but was unavailable and informed the Claimants of this the day before the hearing was to begin. Both the Claimants and the Respondents sought a last-moment postponement of the hearing in order to accommodate the witness, but that postponement was not granted.

3. Because the parties had anticipated all witnesses to testify during the two days of hearing followed shortly by the arbitrator's decision, they did not utilize a stenographer or otherwise take steps to record the proceedings. Due to the last-minute nature of the witness' unavailability, the parties could not secure a stenographer on such short notice.

4. The applicable local rules provide that responses or objections to the Motion for Issuance of Letters Rogatory be filed by March 13, 2019. Based on that date, the earliest the Claimants might anticipate receiving the requested Letters Rogatory is some 30 days after the first two days of hearing. Given the need to serve the Letters Rogatory and the Subpoena, and the need to give a reasonable amount of time to the witness prior to testifying, the Claimants are concerned that the significant additional time between the unrecorded testimony of the witnesses on February 12th & 13th and the time when the subpoenaed witness is likely to testify will be prejudicial to their case and may result in findings that are not entirely consistent with the evidence that was presented on the earlier dates.

WHEREFORE, for the reasons stated above, the Claimants respectfully request that this Court issue a Short Order of Notice for responses and/or objections to the Motion for Issuance of Letters Rogatory to be filed within seven (7) days, or March 6, 2019.

Respectfully submitted,
Arbitration Claimants/Movants,
By and through their attorney,

Dated: February 27, 2019

/s/ Joshua A. Burnett, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on the date indicated below, a copy of the foregoing document was served by first class mail (and email where indicated) to Steven Marullo, Esq., attorney for the Arbitration Respondents, Johnathan Altman, Esq., attorney for Gracie Technologies, and Gracie Technologies' Registered Agent, thus:

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Dated: February 27, 2019

/s/ Joshua A. Burnett, Esq.
Joshua A. Burnett, Esq.